Govt. Press 45,000-18-12-30.

Law (1931) Department.

General

MS SERIES.

G.O. No. 1863

DATED 24. 4. 31

[Despatch Abstract.]

Legal assistance - Fees to pleader etc. - Defence of Mr. M. Schamnad, Inspector of Police, Mangalore - C.C. No. 109/30 on the file of the Subdivisional Magistrate, Mangalore - Rs. 82 sanctioned.

C.F

Law (General) **DEPARTMENT**

Received ..... 192 *Registered* 192

L.S 736 B 28/2/31

Subject.

Vakil's fees - Advocate engaged to defend Mr.M.Schamnad, Circle Inspector of Police, Mangalore - C.C.No.109/30 file of the Sub-divisional Magistrate, Mangalore - sanction for payment - requested.

ENCLOSURES.
No .....
.....
Spare copies .....

Ref.C.1 No. 7459-30.

Station Mangalore *Dated the* 15th February 1931.

From (Name) G. W. Wells, Esquire, M.A., I.C.S.,

(Designation) Dt. Magistrate of South Kanara.

To The Secretary to the Government of Madras,

Law (General) Department.

Madras.

Sir,

In June 1930, Mr. M.Schamnad, Inspector of Police, Mangalore had to enter the precincts of the Sri Vittal ----- Rukumayi temple at Mangalore to disperse the unlawful assembly of Congress Volunteers who were camping in the powli and the chatram of the said temple for disobeying the order under Section 144 Cr.P.C. promulgated by the Dt. Magistrate, South Kanara. For this act of the Inspector which he did in the discharge of his duties as a Police Officer, a complaint C.C. No.109/30 on the file of the Sub-divisional Magistrate, Mangalo was filed against him by the Senior trustee of the said temple for offences under Sections 295 and 447 I.P.C. The Inspector

applied to me for legal assistance to defend him in this case. On the recommendation of the Dt. Superintendent of Police, South Kanara I authorized the Inspector to engage M.R.Ry. M.M. Suvarna, Avl., B.A., B.L., Advocate, Mangalore to defend him at a fee not exceeding Rs.35/- a day or Rs.100/- for the whole case.

2. In the meantime the Police chargesheeted the Moktessors of the said temple for an offence under section 157 I.P.C. for harbouring the Congress Volunteers within the precincts of the temple.

3. One of the younger trustees of the temple then approached me and represented to me that the younger trustees were entirely innocent in the matter of harbouring the volunteers, that all arrangements for letting the volunteers use the temple premises had been made by the senior trustee and desired to know whether the case against the trustee could not be withdrawn. I pointed out to this trustee that the case against Mr. Schamnad would certainly fail for want of sanction by Government, that the Police had a good case against them for harbouring and said that if the trustees were prepared to withdraw their complaint against Mr. Schamnad and to undertake not to initiate any civil proceedings against him and if they would give a written statement to that effect. I was prepared to advise the Dt. Superintendent of Police to withdraw the case against them for harbouring. The trustees accordingly gave a written statement and filed an application requesting that the complaint against Mr. Schamnad may be struck off the file without any enquiry. The case against the trustees was also withdrawn. Copies of the orders in both the cases are enclosed.

4. The Advocate engaged by the Inspector has put in a claim for Rs.100/-. The Advocate has appeared in Court twice in connection with this case - one in Mangalore and one in Camp. His fee comes to Rs. 97-0-0 as detailed below:

For appearance on 2 days including the watching of the case against the moktessors at Rs.35/- per day.	...	Rs.70/-

see rule 4(b) at p 78 of the Manual of Jury Lists Vol II

Travelling allowance for journey to Panemangalore and back to Mangalore a distance of 12 miles.	...	12-0-0
Consultation fee &c.	...	15-0-0
		97-0-0

The Dt. Superintendent of Police reports that over and above the appearance in Court, the Advocate had to spend at least two mornings with him and also to study the case with Mr. Schamnad. In the circumstances I consider that the Advocate is entitled to the fee of Rs.100/- claimed by him. I therefore request that Government may be pleased to sanction the paymentof this amount to the Advocate.

Your obedient servant,

16/2/31

For Dt.Magistrate.

12.2.31

In the Court of the Sub-Divisional I Class Magistrate, Mangalore Division.

Judgment in Cal.case No.109/1930 on the file of the Sub-Divisional I Class Magistrate, Mangalore.

Wednesday, the 23rd day of July 1930

Present:- M.R.Ry. A. Krishnaiya Pantulu Garu.

****

Complainant: M. Keshava Prabhu.

Accused: Mr. M. S. Chamnad.

Offence: 447 & 295 I.P.C.

Finding: Not proved.

Order: Discharged under Section 253 C.P.C.

Serial No.	Description of accused.					
	Name.	Father's name.	Caste.	Occupation.	Residence.	Age.
1	Mr.M.S. Chamnad.	..	Not examined.			

Date of						
Occurrence.	Complaint.	Appearance.	Release on bail.	Commencement of trial.	Close of trial.	Remarks.
20-6-30.	24-6-30.	23-7-30.	..	23-7-1930.		

(Sd) A. Krishnaiya,
Sub Divisional Magistrate,
23-7-1930.

5

Cal.Case No.109/30.

Order (253) 1 Cr.P.C.

The complainant filed a complaint under 447 and 295 I.P.C. My predecessor took it on file.

The complainant files today a petition in which he owns that the accused entered the temple in the discharge of his duties, and that to prosecute him sanction of the Local Government is necessary. He prays that further proceedings be stopped. The accused has no cross-examination on the petition filed by P.W.1.

2. In the circumstances, I discharge the accused under Section 253 (1) Cr.P.C.

(Sd) A. Krishnaiya,
Sub Divisional Magistrate,
23-7-1930.

True Copy.

For Dt.Magistrate.

19.2.31

Cal. Case No.115/30.

Proceedings of the Sub-divisional I Class Magistrate, Mangalore Division, dated 29th July 1930.

H.R.Ry. A. Krishnaiya Pantulu Garu.

King Emperor (Town Station F.I.No.147/30). Complainant.

1. Keshava Prabhu 2. Kogga Kamath 3. Mukunda Prabhu and 4. Vasudeva Naik.

Offence - Section 157 I.P.C.

Date of offence.		Between 19th & 20th June 1930.
"	charge sheet.	14.7.1930.
"	order.	29.7.1930.

Order under 253(1) Cr.P.C.

The Prosecuting Inspector withdraws the charge sheet in this case under 494 Cr.P.C. I discharge all the accused.

(Sd.) A. Krishnaiya.
29/7.

Orders relating to property will be passed later. The accused do not claim it. The Police should report in a week who the owners are and from whom they were seized. If owners are not known, their report should state so before 7.8.1930.

(Sd.) A. Krishnaiya.
29/7.

Circle Inspector of Police told in Court of this order.

(True Copy)

For Dt. Magistrate.

Reminder.

Ll. 2039 B
Re-4.31

Law (General) DEPARTMENT. C.F. 30.

Received 21 APR 1931 192 *Registered* 192 .

Subject.

Vakil's fee - Advocate engaged to defend Mr.M.Schamnad, Circle Inspector of Police, Mangalore - C.C.109/30 on the file of Sub-divisional Magistrate, Mangalore - sanction.

This office Ref.C.1-7459-30 dated 15-2-1931.

ENCLOSURES.
No .....
.....
Spare copies .....

No.

Station Mangalore *Dated the* 21st April 1931

From (Name) Mr. J. Hussain, Bar-at-law,

(Designation) Dt. Magistrate of South Kanara.

To The Secretary to the Government of Madras,

Law (General) Department,

Madras.

Sir,

I request the favour of an early reply to the reference quoted above.

For Dt.Magistrate.

22.4.31

Law (General) Depa

From the Dist. Suptt Kanara. Refno C-1-7457-30
Dy 15-2-31

Legal Asst Law. For Govt pleader
Depns of Mr Shamanna. Civil
Inspectory Asst - Mangalore

Submitted the remarks by the Public
(Police) Deptt may be invited vide. in the
first instance.

Law Gl-wo. 936 B-1/100. 27.2.31
2-3-31

BR
28/2

Pub (Police)

Pub (Police) Deptt.

A District Magistrate is competent to employ or authorize the employment of counsel on behalf of public servants at a fee not exceeding Rs 35 per diem or Rs 100 in an ordinary case, or Rs 300 in a case in which the offence charged is a capital one. Private pleaders so employed are also entitled to travelling allowance (X) admissible under the Madras Travelling Allowance Rules.

2. The recommendation of the D.M. of South Kanara to pay Rs 100 on the whole

GOVT. OF MADRAS
CHIEF SECT. O
2 MAR 1931
947
Police

See Po 224(8) on page 55 of P.O Book Vol I (not put up)

See note under Po 224(3) referred to above

(X) see rule 4(b) at p 787 The Manual of Travelling Allowances Vol II

(Removed by Public (Police) Dept)

Dr. [illegible] the Advocate engaged by the Inspector may be supported in this depth and the file returned to Law Deptt

APN
3/3/31

Law Dept. no
7/3/31

Law (Genl) Dept.

The following amounts claimed [illegible] of the following

1) For appearance on two days.- Rs 70.
2) Travelling Allowance for journey to Panemangalore and back to Manipalore. - 12 miles. } Rs 12.
3) Consultation fee. Rs 15.

97

Item (1) above is reasonable & the rate proposed per day (i.e.) Rs 35. may be allowed.

Item (2). The Pleader is entitled to a Mileage allowance of annas eight a mile. - This item may therefore be allowed.

Item (3). No fee is payable as a general rule to Govt and Govt Servants for services rendered out of Court. The same principle has been adopted in the case of private pleaders also. Nor does the rule authorising - the employment of private pleaders recognise Consultation fee. This item may therefore be disallowed.

A

B

Though the actual bill comes to only Rs 97 as indicated on the previous page, the Dist Recon Kal/p3'it Mundsh was of opinion that the pleader had spent two mornings with the D.A.G. in studying the records of the case. But as already noted no fee is payable for work done out of Court. Advocates are also not allowed any fee for attendance on client.

In the circumstances items (1) and (2) (Rs 82) alone may be sanctioned. Draft submitted may be sent to Public Police and Finance for acceptance.

Rs 70+12 = Rs 82.

16.3.31.

BJR 23/3

9/3

L.J. 24/3

L.J. No 936B-2 25.3.31

Pub. (Police) Dept. fin.

POLICE 25 MAR 1931 1362 SECT. O TO GOVT.

Pub (Police) deptt

The Law deptt is not prepared to admit the consultation fee of Rs 15 and the extra sum of Rs 3 claimed by the Advocate. The Inspector will have to pay them from his own pocket if the Advocate is not prepared to forego the amount. In the circumstances pointed out by Law, this deptt need not perhaps press the matter. The draft order may be

para 4, Pt 2-3 Cr

Fin

P.T.O

accepted and the file passed on to Finance

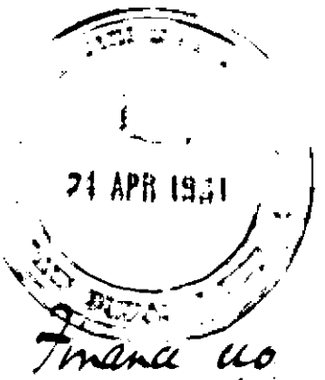
ARN 27/3/31

28/3/31

4 31/3

CS

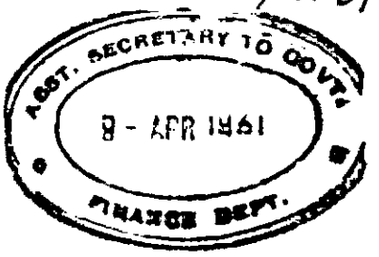
3/4/31



Finance U.O

Pub (Police) U.O. 1362-T 8/4/31

L. S 1883 B 13/4/31



Finance U.O 12330

The draft order maybe accepted and the Case returned to Law(G)?

10.4.31.

ARN 11.4.31

Thro' C.S.R

11.4.31 11.4.31

13/4/31

Law (Genl.)

Law (General) Deptt

Fin U.O. 12330 of 15

R.S

The draft may issue. (Para 2 has been amended so as to make it consistent with the new system of units adopted in the B.E. for [1931-32]

15.4.31 16/4

17/4 S 21/4

C2 23.4.31

Sect. 15-5(

Law (Jud'l) DEPARTMENT.

	Date.	Initials.
When received for Fair-copying.		
When copied ..	[illegible]	
When examined ..	25-4	
When signed ..		
When despatched ..		

Legal Assistance
Fees to Pleaders etc- Defence of Mr. M Schaward, ~~Guide~~ Supdt of Police, Mangalore. CC No 109/30 on the file of the Sub Divl Magte Mangalore - R 82 Sanction. ~~Remuneration for the fee for work done out of Court disallowed~~

READ AGAIN G.O. No. ..... dated 25/IV/31 19

" " " " ..... " 19

READ ALSO :—

C. No. 9805 From the Dist Supdt Kanara. Ref No. C1-7459-30 dated 11-2-1931.

" " ..... " " ..... " ..... " 19

" " ..... " " ..... " ..... " 19

ORDER.

No. 1863, dated 24-4-1931.

The Govt Sanction an expenditure of Rs 82 (Rupees Eighty two only) in connection with the defence of Mr. M Schaward, ~~Guide~~ Supdt of Police, Mangalore in CC No 109/30 on the file of the Sub Divl Magte Mangalore. The claim for a consultation fee of Rs. 15/ is not admitted.

2. The expenditure will be debited to "24-b. Administration Reserved - D Contingencies & D Justice - Law Courts/- Supplies and Services - 1931 - ~~Miscellaneous~~ - Assembly Fees to Pleaders not in Govt Service and other Supplies and Services"

BR 28/3

2nd 24/3

Dpd. by Van / Post / Messenger
Dpr's. initials. [illegible]
Date 25/IV/31

Dr the Dist Supdt Kanara. ✓
Dr the Asst Govt Surgeon Kanara ✓

16.3.31.